

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.: 24-cv-218

\$110,147.00 IN U.S. CURRENCY,

Defendant.

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VERIFIED COMPLAINT IN REM

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Plaintiff, United States of America, by its attorneys, Timothy M. O'Shea, United States Attorney for the Western District of Wisconsin, and by Heidi L. Luehring, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure. The allegations in this Complaint are supported by a declaration from Detective Joshua Rider with the Columbia County Sheriff's Office.

1. This is a civil action *in rem* brought to enforce the provision of 21 U.S.C. § 881(a)(6) for the forfeiture of all moneys furnished or intended to be furnished in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys used or intended to be used to facilitate a violation of Title II of the Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.*

2. The defendant property consists of \$110,147.00 in U.S. currency seized by the Columbia County Sheriff's Department on November 7, 2023, in the Township of Arlington, Columbia County, Wisconsin.

3. Plaintiff brings this action *in rem* to forfeit and condemn the defendant property. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and over an action for forfeiture under 28 U.S.C. § 1355(a).

4. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b). Upon the filing of this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem*, pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

5. The defendant property is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) because it constitutes 1) money, negotiable instruments, securities and other things of value furnished and intended to be furnished in exchange for a controlled substance in violation of the Controlled Substances Act; 2) proceeds traceable to such an exchange; and 3) money, negotiable instruments, and securities used and intended to be used to facilitate a violation of the Controlled Substances Act.

6. On November 7, 2023 at approximately 3:05 a.m., law enforcement with the Columbia County Sheriff's Office conducted a traffic stop on I90-94 in Arlington

Township, Columbia County, in the Western District of Wisconsin on a vehicle for speeding.

7. The vehicle was identified as a Chevrolet Impala (Impala) registered to Ernest McCurry (McCurty).

8. Law enforcement contacted the driver, McCurry, and the passenger, Jeremy Stanton (Stanton).

9. Stanton had his seat reclined back and appeared to have been sleeping but was awakened by the traffic stop.

10. The Deputy observed McCurry sweating profusely even after McCurry removed his hat.

11. During law enforcement contact with the vehicle's occupants, the Deputy was able to smell the odor of marijuana emitting from the vehicle.

12. The Deputy noted that the odor of marijuana seemed stronger as the passenger, Stanton, was going through a zippered bag looking for his license.

13. A second Deputy responded to assist with the traffic stop. The second Deputy also detected an odor of marijuana to be emanating from the vehicle.

14. McCurry was asked to step outside of the vehicle.

15. McCurry consented to a search of his person.

16. McCurry had \$964 in cash in his jacket pocket.

17. McCarty explained he owned a car lot and was going to purchase a vehicle at an auction. McCarty showed the officer a vehicle auction site on his cellular phone but no specific vehicle.

18. A probable cause search was conducted of the Impala.

19. During the search, the deputies noted several air fresheners both hanging and inserted into the vehicle's air vents as well as spray and other type of air fresheners.

20. In the glove box was a speeding traffic citation issued by the Wisconsin State Patrol issued earlier in night in Eau Claire County, Wisconsin.

21. A cracker box was located on the back driver side floorboard.

22. The cracker box contained a plastic bag and inside the plastic bag was a substance officers believed to be heroin or fentanyl.

23. The substance found in the cracker box field tested positive for the presence of fentanyl.

24. The fentanyl found in the cracker box weighed approximately 417.5 grams.

25. Also located in the vehicle was a cut off straw under the passenger front seat.

26. In the trunk of the vehicle was a plastic shopping bag.

27. Inside the plastic shopping bag was approximately \$110,147.00 in U.S. currency<sup>1</sup> and rubber or latex type gloves.

28. The currency was in stacks held together with rubber bands.

29. Also found in the trunk were plastic storage containers and a new roll of aluminum foil.

30. Officers seized a total of six cell phones. One cell phone was located on McCarty's person, two cell phones were located on Stanton's person, two cell phones were located in the vehicle's center console, and one was located in a zippered bag on the passenger side of the vehicle.

31. During a search of McCarty incident to arrest, officers located a rubber or latex type glove in his pocket. This type of glove is commonly worn when handling opiate drugs such as fentanyl, due to the high risk of absorption through the skin.

32. In McCarty's wallet, officers found \$221 in U.S. currency and several ATM deposit slips for an ATM in Minneapolis, Minnesota.

33. All of the deposits were made on November 6, 2023, at the following times and amounts: 12:05 a.m. \$100, 12:06 a.m. \$15, 12:07 a.m. \$125, 12:09 a.m. \$32, 12:12 a.m. \$40, 12:13 a.m. \$135, 12:15 a.m. \$41, 12:18 a.m. \$1,150, 12:19 a.m. \$8, and 12:20 a.m. \$250.

34. The Impala was seized and transported to an impound lot.

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<sup>1</sup> Law enforcement counted the seized currency and arrived at a total of \$110,178.00. As part of the forfeiture process, the currency was taken to a bank. The bank counted the currency. The bank had a total of \$110,147.00 in seized currency and confirmed one of the \$100 bills found in the bag was counterfeit.

35. Law enforcement obtained and executed a search warrant on the Impala.

36. Located in the center console of the vehicle were two bank deposit slips for cash deposits on August 25, 2023, of \$800 at 8:20 a.m. and \$1,140.00, at 8:22 a.m.

37. Located on the front passenger seat, was a zippered bag containing Stanton's wallet, Grow+op rolling papers, \$899 in U.S. currency, three Minnesota EBT cards<sup>2</sup>, and a collapsible baton.

38. On the bottom of the zippered bag was a green plant material consistent with marijuana shake.

39. The substance in the zippered bag tested positive for the presence of THC, a controlled substance.

40. Located on the driver side rear floorboard, was the cracker box, which had previously contained the seized fentanyl.

41. Under the rear seat, law enforcement located a tin foil wrapper and black latex type glove.

42. The tin foil wrapper contained a white substance which field tested positive for cocaine and weighed approximately .1 gram.

43. Inside the glove was a baggie containing additional baggies.

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<sup>2</sup> Based upon the names printed on the EBT cards, the cards do not belong to either Stanton or McCarty. This is significant because EBT or food stamp cards are a commonly used as form of payment for illegal drugs.

44. Two of the baggies contained a blue substance which field tested positive for fentanyl and weighed a total of approximately 5.3 grams.

45. The glove also contained baggies of white substance which field tested positive for cocaine and weighed a total of approximately 16.3 grams.

46. Law enforcement collected DNA swabs from Ernest McCurry and Jeremy Stanton. DNA swabs from Ernest McCurry, Jeremy Stanton, the corners of the cracker box, and the lid of the cracker box were submitted to the Wisconsin State Crime Laboratory in Madison, Wisconsin.

47. The Confidential Report of Laboratory Findings report from the Wisconsin State Crime Laboratory indicated the following:

- a. The analyst was Erika L. Stocks;
- b. The Crime Lab case number is M23-3144;
- c. The swabs from the cracker box corners were labeled at item C/C1;
- d. The swabs from the cracker box lid were labeled as item D/D1;
- e. The buccal swabs were labeled as Items A&B;
- f. C1 had human DNA present/limited, male DNA present, but was unsuitable for further testing;
- g. D1 had human DNA present, male DNA present, and was further tested using Autosomal STR;

- h. Item A1 & B1 had human DNA present, male DNA not applicable, and was further tested with Autosomal STR;
- i. Item D1 was further tested and a 2-person mixture was detected with at least one male contributor. The following conclusions were drawn from the testing:
  - i. Ernest N.R. McCurry, very strong support for inclusion, and a reported likelihood ratio of  $>1.00 \times 10^{15}$
  - ii. Jeremy R. Stanton, very strong support for exclusion, and a reported likelihood ratio of  $>1.00 \times 10^{-15}$

48. Any additional facts and circumstances supporting the seizure of the defendant property are contained within the attached declaration and incorporated herein this complaint.

WHEREFORE, the United States of America prays:

- (1) that process of warrant be issued for the arrest of the defendant property;
- (2) that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed;
- (3) that judgment be entered ordering the property to be forfeited to the United States of America for disposition according to law; and

(4) that the United States of America be granted such other relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Respectfully submitted this 5<sup>th</sup> day of April 2024.

TIMOTHY M. O'SHEA  
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